

In the Matter of

ROBERT T. NORWAY,
Complainant,

v.

NIAGARA MOHAWK POWER
CORPORATION,
Respondent.

DATE ISSUED: Nov. 14, 1996

CASE NO.: 95-ERA-5

Appearances:

Matthew J. Fusco, Esquire
For the Complainant

David M. Pellow, Esquire
For the Respondent

Before: GERALD M. TIERNEY
Administrative Law Judge

RECOMMENDED ORDER APPROVING SETTLEMENT AGREEMENT
AND ORDER OF DISMISSAL WITH PREJUDICE

This is a proceeding brought under the Energy Reorganization Act of 1974 ("ERA"), 42 U.S.C. § 5851, and the regulations promulgated thereunder at 20 C.F.R. Part 24. The parties have requested dismissal of the complaint with prejudice and submitted a Confidential Settlement Agreement and General Release in support of such request.

The parties have requested that the settlement agreement and its terms be treated as confidential commercial information subject to predisclosure notification. See 29 C.F.R. § 70.26(b).

The settlement agreement must be reviewed to determine whether the terms are a fair, adequate and reasonable settlement of the complaint. Ezell v. Tennessee Valley Authority, 95-ERA-39 (ARB June 26, 1996).

The settlement agreement provides for the payment to Complainant certain sums representing wages, benefits, damages, costs, disbursements, and attorney's fees.

After due consideration of the proposed settlement agreement, in light of the nature of the complaint, the disputed issues presented by the pleadings, and the potential difficulty of litigation, IT IS HEREBY DETERMINED that the terms of the settlement are fair, adequate and reasonable as attested by the parties. It is RECOMMENDED that the Secretary¹ approve the attached settlement and issue an order dismissing the instant complaint with prejudice. See 29 C.F.R. § 24.6.

GERALD M. TIERNEY
Administrative Law Judge

¹ The Secretary delegated jurisdiction to issue final agency decisions under this statute to the Administrative Review Board. 61 Fed. Reg. 19978 (May 3, 1996).

